

# Military Equipment

## 708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment, (Government Code § 7070; Government Code § 7071; Government Code § 7072).

### 708.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

**Exigent Circumstances** - a good faith belief by the Police Chief or designee that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.

**Military Equipment** – a variety of items defined by California Government Code section 7070(c).

**Type** – each item that shares the same manufacturer model number.

## 708.2 POLICY

It is the policy of the Fremont Police Department to acquire and use equipment designed to enhance law enforcement's ability to ensure public safety and welfare. It is the policy of the Fremont Police Department that members of this department comply with the provisions of Government Code § 7071 and Fremont Municipal Code Chapter 8.80 with respect to military equipment. California Government Code § 7070 provides a list of equipment types that are considered to be "military equipment" for purposes of this policy requirement, and this Military Equipment Policy includes information for any such equipment types that are utilized by the Fremont Police Department.

Items deemed to be "military equipment" by Government Code § 7070 are used as a component of overall best practices for law enforcement agencies throughout the country. These tools have been tested in the field and are used by law enforcement agencies to enhance citizen safety, officer safety. Loss of these items would jeopardize the welfare of citizens and peace officers within the Fremont Police Department. The term "military equipment", as used in Government Code § 7070, in fact does not necessarily indicate equipment that has been used by the military. Pursuant to AB 481, items deemed to be "military equipment" include, but are not limited to, unmanned aerial or ground vehicles, armored vehicles, command and control vehicles, pepper- ball launchers, less lethal shotguns, less lethal 40mm projectile launchers, long range acoustic devices, and distraction devices.

The Fremont Police Department does not possess any tactical equipment that it has obtained from the military, nor does it possess any equipment that was designed for military use. The Fremont Police Department does not participate in the Law Enforcement Support Officer (LESO) 10-33 program. The department does not currently receive or utilize surplus military equipment from

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the Federal government. It is the policy of the Fremont Police Department to acquire and use equipment designed to enhance law enforcement's ability to ensure public safety and welfare.

### **708.3 MILITARY EQUIPMENT COORDINATOR**

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the City Council for matters related to the requirements of this policy.
- (b) Identifying currently utilized department equipment that qualifies as military equipment, or the equipment the Department intends to acquire that requires approval by the City Council.
- (c) Conducting an inventory or audit of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Fremont Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
  - (a) Publicizing the agenda of the meeting.
  - (b) Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.
- (h) Ensuring this policy is publicly available on the Department's website.

### **708.4 MILITARY EQUIPMENT INVENTORY**

The following constitutes a list of qualifying equipment that is utilized by the Department:

- Unmanned Aircraft Systems (UAS/Drones)
- City of Fremont Mobile Command Vehicle (MCV)
- Lenco BearCat G2
- Lenco BearCat/MedEvac
- Ford Transit – 350 Crew
- Icor Caliber T5 Robot
- Defense Technologies Low Roll 12 gram non reloadable distraction device with safety clip

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- Deftech LMT 40 mm kinetic energy projectiles with 40 mm projectiles
- Tippmann FTC Pepper-ball launchers
- Remington Breaching Shotgun (Model 870, 12 Gauge)
- Sig Sauer MCX Virtus multi-caliber 223/556/300 black-out rifle and ammunition
- Sig Sauer MCX multi-caliber modular rifle, 300 BLK 5.75" duty barrel, a 5/56 caliber 11" barrel,
- Rock River Arms, LAR -15
- Pepper-ball VKS Launcher
- Defense Technologies CS Gas systems
- Defense Technologies flashbang systems

Exhibit 1 to this policy further describes the qualifying equipment that is utilized by the Fremont Police Department, along with additional information about the qualifying equipment.

### **708.5 APPROVAL**

The City Council has approval by way of an ordinance adopting this policy. As part of the approval process, the Chief of Police submitted this policy to the City Council and made this policy available on the department website at least 30 days prior to the public meeting by the City Council concerning the military equipment at issue (Government Code § 7071). The military equipment policy was approved by the City Council prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to 10 USC § 2576a;
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers;
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing;
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department;
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the City Council;
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment; and
- (g) Acquiring military equipment through any means not provided above.

In approving this policy, the City Council determined the following:

- (a) The Military Equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.

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- (b) The Military Equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.

### **708.6 COORDINATION WITH OTHER JURISDICTIONS**

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy and FMC Chapter 8.80.

Military equipment used by any member of this jurisdiction shall be approved for use and in accordance with the policy and FMC Chapter 8.80. Military equipment used by other jurisdictions that are providing mutual aid to this jurisdiction shall comply with their respective military equipment policies when rendering assistance.

### **708.7 TRAINING**

An officer or employee must complete training requirements set by the department prior to deploying or using military equipment listed in this policy and Exhibit 1 to this policy.

### **708.8 USE IN EXIGENT CIRCUMSTANCES**

In exigent circumstances and with the approval of the Chief of Police or designee, the department may acquire, borrow and/or use military equipment that is not included in the military equipment inventory section of this policy.

In accordance with this section, if the department acquires, borrows, and/or uses military equipment in exigent circumstances, it must take all of the following actions.

- Provide written notice of the acquisition or use to the City Council within 30 days following commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
- If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended military equipment policy to the City Council within 90 days following the borrowing, acquisition and / or use, and receive approval for continued use.
- Include the equipment in the department's next annual military equipment report.

### **708.9 ANNUAL REPORT**

The Chief of Police or the authorized designee shall submit a military equipment report to the City Council for each type of military equipment approved annually for as long as the military equipment is available for use (Government Code § 7072). The Annual Military Equipment Report will include the following information for the immediately preceding calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.

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3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

The Fremont City Council will use the Annual Report as a mechanism to ensure the Fremont Police Department's compliance with this Military Equipment Policy, and to help it determine whether to approve, revise, or revoke components of the Military Equipment Policy for the subsequent year.

The Chief of Police or the authorized designee shall also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in department inventory.

### **708.10 COMMUNITY ENGAGEMENT**

Within 30 days of submitting and publicly releasing the annual report, the Department shall hold at least one well publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

### **708.11 PUBLIC COMPLAINTS**

Pursuant to California Government Code §7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment in this policy by any of the following means:

- (a) Via email to: [internalaffairs@fremont.gov](mailto:internalaffairs@fremont.gov)
- (b) Via phone call to: 510-790-6900
- (c) Via mail sent to: Fremont Police Department, 2000 Stevenson Blvd, Fremont, CA 94538

The Fremont Police Department is committed to responding to complaints, concerns and/or questions received through any of the above methods in a timely manner.